

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JAYMZ HERNANDEZ, by his parents and next friends)	
Crystelle Hernandez and Joshua Hernandez; CRYSTELLE)	
HERNANDEZ; and JOSHUA HERNANDEZ,)	
)	
Plaintiffs,)	No. 09 C 2461
)	Hon. Suzanne B. Conlon
v.)	Judge Presiding
)	
LAKESHA FOSTER, DCFS Investigator, in her)	
individual capacity, et al.,)	
)	
Defendants.)	

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

NOW COME the Defendants, Lakesha Foster, DCFS Investigator, in her individual capacity, Pamela Foster-Stith, DCFS Supervisor, in her individual capacity, Andrew Polovin, DCFS Supervisor, in his individual capacity, and Michael Ruppe, DCFS Manager, in his individual capacity, by their attorney, Lisa Madigan, Attorney General for the State of Illinois, and move this Court for summary judgment pursuant to Fed. R. Civ. P. 56. In support thereof, Defendants state as follows and submit their memorandum in support of their motion for summary judgment and their statement of material facts as to which there is no genuine issue.

1. Plaintiffs, Crystelle and Joshua Hernandez, parents of Jaymz Hernandez, and Jaymz Hernandez, bring this complaint against four individual employees of the Illinois Department of Children and Family Services (“DCFS”) who had various responsibilities for investigating allegations that Jaymz was the victim of child abuse when he was fifteen months old. The Defendants are Lakesha Foster, DCFS Investigator, Pamela Foster-Stith, DCFS Supervisor, Andrew Polovin, DCFS Supervisor, and Michael Ruppe, DCFS Manager.

2. The Defendants move for summary judgment pursuant to Fed. R. Civ. P. 56.

3. The Defendants are entitled to qualified immunity for the alleged violation of the Fourth Amendment for taking protective custody of Jaymz. Plaintiff's rights here were not so well-developed as to place Defendants on notice that their actions were unlawful. Defendants' actions were reasonable. They did not act recklessly or with deliberate indifference.

4. The Defendants are entitled to qualified immunity for the establishment of a safety plan with the Hernandezes, in which Jaymz would reside with his great-grandparents and his parents and the parents to have supervised contact with Jaymz.

5. Finally, Defendants are entitled to qualified immunity for Plaintiffs' claim of a procedural due process violation.

WHEREFORE, for the foregoing reasons and for the reasons set forth in Defendants' Memorandum in Support of Their Motion for Summary Judgment, Defendants request that this Court grant their motion for summary judgment.

Respectfully submitted,

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